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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **ADVISORY ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10 February 2009 have been fully considered but they are not persuasive.

In response to applicant's argument, (starting on Page 15, 3<sup>rd</sup> ¶) stating Del Sesto reference only discloses a primitive OPT field 308 that only specifies a simple numerical value and not an evaluation type and an evaluation value, the examiner respectfully disagrees.

Applicant's claim currently requires a substitution determination parameter (i.e., OPT field 308) to specify an evaluation type (i.e., content, priority, etc.) and evaluation value (i.e., set priority parameter, flag value, etc).

Del Sesto discloses extracted OPT field 308 provides broadcast server 608 within subsystem 628 with the necessary information to first determine if the interactive content may be replaced (i.e., OPT field 308 is set to designate whether an interactive content may be replaced or modified) and second to determine what type of interactive content is currently present (i.e., the OPT field 308 may provide information to be interpreted locally for deciding what content to select from database 644 to facilitate replacing the existing interactive content) (¶ 0058).

Based on this disclosure by Del Sesto, broadcast server 606 or "evaluator" must perform two separate evaluations of OPT field 308. First, broadcast server 606 has to make the determination of whether the interactive content can be replaced or modified

by local subsystem 628 by evaluating the set parameter (i.e., evaluation type is equal to priority and value is equal to parameter indicated whether content may be replaced). If the set parameter in OPT field 308 indicates that interactive content can be replaced, then broadcast server 608 will then evaluate the flag to determine the type of content being transmitted and what content should be used to replace the existing content (i.e., broadcast server determines what content is currently present and what content from database 644 should be used to replace the existing content if permitted).

Furthermore, depending on the value of the flag set in OPT field 308 that indicates the type of interactive content, broadcast server 608 determines whether the interactive content should be prohibited or replaced. For example, if the interactive content is advertisement wherein the local subsystem 628 does not derive revenue from, then the broadcast server can determine to remove the advertisement completely or insert an advertisement where revenue may be derived from local subsystem 628.

Clearly Del Sesto discloses more than just a primitive OPT field 308 that only specifies a simple numerical value. OPT field 308 provides local subsystem 628 with the necessary information to determine if the interactive content can be replaced or modified (§ 0058-0062). Thus a local content provider can evaluate the interactive content by first determining the priority of the interactive content and whether it may be replaced or not (§ 0045 and 0058). Next, local content provider evaluates the flag set in OPT field 308 which indicates the type of interactive content transmitted (i.e., a ticker, a contest, an advertisement, etc.) and whether the content is allowed locally or if the content is prohibited (§ 0058 and 0062).

Therefore, Del Sesto teaches a data stripper (604 – figure 6, ¶ 0049) for extracting meta data parameters (i.e., interactive conditional code 303 – figure 3) from a data signal (combined television-interactive code signal 601 sent from broadcast facility to local broadcast subsystem 628) wherein the extracted meta data parameters [303] include a substitution determination parameter (OPT field 308 – figure 3, ¶ 0058) said substitution determination parameter specifying an evaluation type (i.e., priority, content, etc.) and an evaluation value (i.e., flag that indicates type of interactive content and set parameter indicating whether the content can be replaced or not) for determining when a subset of original broadcast meta data in said data signal should be replaced (¶ 0045, 0058, and 0062) and an evaluator (606 – figure 6; ¶ 0049) for evaluating the substitution determination parameter [308], said evaluator performing an evaluation of said evaluation type on said evaluation value with respect to a local state (i.e., server 606 determines whether the subsystem 628 requires an application to be blocked ¶ 0060 & 0062) of said modification device [628] (¶ 0062-0065, 0056-0058 and 0045).

In response to applicant's argument (Pages 18-19) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., two-part system with both an evaluation type and an evaluation value in infinitely expandable with upgrades to the system) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

